

**3SHB 2939** - H AMD 817  
By Representative Cox

**FAILED 2/11/2006**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that it is in the  
4 public interest to encourage the rapid adoption and use of  
5 bioenergy, to develop a viable bioenergy industry within Washington  
6 state, and to support a viable agriculture industry to grow  
7 bioenergy crops. To accomplish this, the Washington bioenergy loan  
8 program is established to stimulate the construction of facilities  
9 in Washington to generate energy from farm sources or convert  
10 organic matter into fuels.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply  
12 throughout this chapter unless the context clearly requires  
13 otherwise.

14 (1) "Department" means the department of community, trade, and  
15 economic development.

16 (2) "Director" means the director of the department of  
17 community, trade, and economic development.

18 (3) "Project" means the construction of facilities, including  
19 the purchase of equipment, to convert farm products or wastes into  
20 electricity or gaseous and liquid fuels. These specifically  
21 include facilities to generate electricity or methane from the  
22 anaerobic digestion of organic matter, and facilities for the  
23 extracting oils from canola, rape, mustard, and other oilseeds.

24 (4) "Political subdivision" means any port district, county,  
25 city, town, special purpose district, and any other municipal  
26 corporations or quasi-municipal corporations in the state.

27 NEW SECTION. **Sec. 3.** (1) An bioenergy loan program is  
28 established within the department. The director may only approve

1 an application providing a loan to a political subdivision for a  
2 project that the director finds:

3 (a) Will convert farm products or wastes directly into  
4 electricity or into gaseous or liquid fuels;

5 (b) Demonstrates technical feasibility and probable business  
6 success;

7 (c) The facility produces long-term economic benefits to the  
8 state, a region of the state, or a particular community in the  
9 state;

10 (d) The project does not require continuing state support;

11 (e) The expenditure will result in new jobs, job retention, or  
12 higher incomes for citizens of the state; and

13 (f) The expenditure is accompanied by private investment.

14 (2) The director may not approve an application if it fails to  
15 provide for adequate reporting or disclosure of financial and  
16 employment data to the director. The director may require an  
17 annual or other periodic audit of the project books.

18 (3) The director may approve an application that results in a  
19 loan of up to five million dollars. In no circumstances shall a  
20 loan approved under this section constitute more than fifty percent  
21 of total project funding.

22 (4) The director shall fix the terms and rates of these loans  
23 to minimize the costs to the borrowers and to encourage  
24 establishment of a viable bioenergy industry. The interest rates  
25 for these loans must be one percent below the prime interest rate  
26 offered by private lending institutions.

27 (5) The director may defer loan repayment for up to twelve  
28 months or until the project starts to receive revenue from  
29 operations, whichever is sooner.

30 (6) The director is authorized to award grants to Washington  
31 public research institutions for the research and development of  
32 new and renewable energy and biofuel sources and markets for  
33 alternative fuel byproducts.

34 NEW SECTION. **Sec. 4.** (1) The director may establish policies  
35 and procedures necessary for processing, reviewing, and approving  
36 loan applications made under this section.

37 (2) Each application must show in detail the nature of the  
38 project, the source of the feedstock, and the technologies that

1 will be used. Each application submitted by a political subdivision  
2 must contain a credit analysis of any industry partner that the  
3 political subdivision may propose to partner with, and must include  
4 a detailed feasibility analysis and business plan.

5 (3) The director shall consult with those agencies having  
6 expertise and knowledge to assess the technical and business  
7 feasibility of the project and probability of success. These  
8 agencies may include, but are not limited to, Washington State  
9 University, the University of Washington, the department of  
10 ecology, the department of agriculture, and the Washington state  
11 conservation commission.

12 (4) If the total requested dollar amount of loans exceeds the  
13 amount available in the Washington bioenergy loan account created  
14 in section 5 of this act, the applications must be prioritized  
15 based upon the following criteria:

16 (a) The extent to which the project will help conserve energy  
17 and reduce dependence on petroleum fuels and imported energy either  
18 directly or indirectly;

19 (b) The extent to which the project will reduce air and water  
20 pollution either directly or indirectly;

21 (c) The extent to which the project will establish a viable  
22 bioenergy production capacity in Washington;

23 (d) The benefits to Washington's agriculture producers; and

24 (e) The number and quality of jobs and economic benefits  
25 created by the project.

26 (5) Upon receiving financial assistance, a political  
27 subdivision must enter into appropriate contracts with any industry  
28 partners that may be involved in the use of the facilities,  
29 infrastructure, or equipment.

30 NEW SECTION. **Sec. 5.** The Washington bioenergy loan account is  
31 created in the state treasury. All receipts from appropriations  
32 made to the account and loan payments of principal and interest  
33 derived from loans made under this chapter must be deposited into  
34 the account. Moneys in the account may be spent only after  
35 appropriation. Expenditures from the account may be used only for  
36 loans for projects consistent with this chapter. Administrative  
37 costs of the department may not exceed three percent of the annual  
38 funds available for this program.

1        NEW SECTION.    **Sec. 6.**    The director shall report to the  
2 legislature and governor on the status of the Washington bioenergy  
3 loan program created under this chapter, on or before December 1st  
4 of the years 2006, 2007, and 2009. This report must include  
5 information on the projects that have been funded, the status of  
6 these projects, and their environmental, energy savings, and job  
7 creation benefits.

8        **Sec. 7.**    RCW 42.56.270 and 2005 c 274 s 407 are each amended to  
9 read as follows:

10        The following financial, commercial, and proprietary  
11 information is exempt from disclosure under this chapter:

12        (1) Valuable formulae, designs, drawings, computer source code  
13 or object code, and research data obtained by any agency within  
14 five years of the request for disclosure when disclosure would  
15 produce private gain and public loss;

16        (2) Financial information supplied by or on behalf of a person,  
17 firm, or corporation for the purpose of qualifying to submit a bid  
18 or proposal for (a) a ferry system construction or repair contract  
19 as required by RCW 47.60.680 through 47.60.750 or (b) highway  
20 construction or improvement as required by RCW 47.28.070;

21        (3) Financial and commercial information and records supplied  
22 by private persons pertaining to export services provided under  
23 chapters 43.163 and 53.31 RCW, and by persons pertaining to export  
24 projects under RCW 43.23.035;

25        (4) Financial and commercial information and records supplied  
26 by businesses or individuals during application for loans or  
27 program services provided by chapters 43.-- (sections 1 through 6,  
28 9, and 10 of this act), 43.163, 43.160, 43.330, and 43.168 RCW, or  
29 during application for economic development loans or program  
30 services provided by any local agency;

31        (5) Financial information, business plans, examination reports,  
32 and any information produced or obtained in evaluating or examining  
33 a business and industrial development corporation organized or  
34 seeking certification under chapter 31.24 RCW;

35        (6) Financial and commercial information supplied to the state  
36 investment board by any person when the information relates to the  
37 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the  
2 providers of this information;

3 (7) Financial and valuable trade information under RCW  
4 51.36.120;

5 (8) Financial, commercial, operations, and technical and  
6 research information and data submitted to or obtained by the clean  
7 Washington center in applications for, or delivery of, program  
8 services under chapter 70.95H RCW;

9 (9) Financial and commercial information requested by the  
10 public stadium authority from any person or organization that  
11 leases or uses the stadium and exhibition center as defined in RCW  
12 36.102.010;

13 (10) Financial information, including but not limited to  
14 account numbers and values, and other identification numbers  
15 supplied by or on behalf of a person, firm, corporation, limited  
16 liability company, partnership, or other entity related to an  
17 application for a liquor license, gambling license, or lottery  
18 retail license;

19 (11) Proprietary data, trade secrets, or other information that  
20 relates to: (a) A vendor's unique methods of conducting business;  
21 (b) data unique to the product or services of the vendor; or (c)  
22 determining prices or rates to be charged for services, submitted  
23 by any vendor to the department of social and health services for  
24 purposes of the development, acquisition, or implementation of  
25 state purchased health care as defined in RCW 41.05.011; and

26 (12)(a) When supplied to and in the records of the department  
27 of community, trade, and economic development:

28 (i) Financial and proprietary information collected from any  
29 person and provided to the department of community, trade, and  
30 economic development pursuant to RCW 43.330.050(8) and  
31 43.330.080(4); and

32 (ii) Financial or proprietary information collected from any  
33 person and provided to the department of community, trade, and  
34 economic development or the office of the governor in connection  
35 with the siting, recruitment, expansion, retention, or relocation  
36 of that person's business and until a siting decision is made,  
37 identifying information of any person supplying information under  
38 this subsection and the locations being considered for siting,  
39 relocation, or expansion of a business;

1 (b) When developed by the department of community, trade, and  
2 economic development based on information as described in (a)(i) of  
3 this subsection, any work product is not exempt from disclosure;

4 (c) For the purposes of this subsection, "siting decision"  
5 means the decision to acquire or not to acquire a site;

6 (d) If there is no written contact for a period of sixty days  
7 to the department of community, trade, and economic development  
8 from a person connected with siting, recruitment, expansion,  
9 retention, or relocation of that person's business, information  
10 described in (a)(ii) of this subsection will be available to the  
11 public under this chapter.

12 **Sec. 8.** RCW 43.84.092 and 2005 c 514 s 1106, 2005 c 353 s 4,  
13 2005 c 339 s 23, 2005 c 314 s 110, 2005 c 312 s 8, and 2005 c 94 s  
14 2 are each reenacted and amended to read as follows:

15 (1) All earnings of investments of surplus balances in the  
16 state treasury shall be deposited to the treasury income account,  
17 which account is hereby established in the state treasury.

18 (2) The treasury income account shall be utilized to pay or  
19 receive funds associated with federal programs as required by the  
20 federal cash management improvement act of 1990. The treasury  
21 income account is subject in all respects to chapter 43.88 RCW, but  
22 no appropriation is required for refunds or allocations of interest  
23 earnings required by the cash management improvement act. Refunds  
24 of interest to the federal treasury required under the cash  
25 management improvement act fall under RCW 43.88.180 and shall not  
26 require appropriation. The office of financial management shall  
27 determine the amounts due to or from the federal government  
28 pursuant to the cash management improvement act. The office of  
29 financial management may direct transfers of funds between accounts  
30 as deemed necessary to implement the provisions of the cash  
31 management improvement act, and this subsection. Refunds or  
32 allocations shall occur prior to the distributions of earnings set  
33 forth in subsection (4) of this section.

34 (3) Except for the provisions of RCW 43.84.160, the treasury  
35 income account may be utilized for the payment of purchased banking  
36 services on behalf of treasury funds including, but not limited to,  
37 depository, safekeeping, and disbursement functions for the state  
38 treasury and affected state agencies. The treasury income account

1 is subject in all respects to chapter 43.88 RCW, but no  
2 appropriation is required for payments to financial institutions.  
3 Payments shall occur prior to distribution of earnings set forth in  
4 subsection (4) of this section.

5 (4) Monthly, the state treasurer shall distribute the earnings  
6 credited to the treasury income account. The state treasurer shall  
7 credit the general fund with all the earnings credited to the  
8 treasury income account except:

9 (a) The following accounts and funds shall receive their  
10 proportionate share of earnings based upon each account's and  
11 fund's average daily balance for the period: The capitol building  
12 construction account, the Cedar River channel construction and  
13 operation account, the Central Washington University capital  
14 projects account, the charitable, educational, penal and  
15 reformatory institutions account, the common school construction  
16 fund, the county criminal justice assistance account, the county  
17 sales and use tax equalization account, the data processing  
18 building construction account, the deferred compensation  
19 administrative account, the deferred compensation principal  
20 account, the department of retirement systems expense account, the  
21 developmental disabilities community trust account, the drinking  
22 water assistance account, the drinking water assistance  
23 administrative account, the drinking water assistance repayment  
24 account, the Eastern Washington University capital projects  
25 account, the education construction fund, the education legacy  
26 trust account, the election account, the emergency reserve fund,  
27 The Evergreen State College capital projects account, the federal  
28 forest revolving account, the freight mobility investment account,  
29 the health services account, the public health services account,  
30 the health system capacity account, the personal health services  
31 account, the state higher education construction account, the  
32 higher education construction account, the highway infrastructure  
33 account, the high- occupancy toll lanes operations account, the  
34 industrial insurance premium refund account, the judges' retirement  
35 account, the judicial retirement administrative account, the  
36 judicial retirement principal account, the local leasehold excise  
37 tax account, the local real estate excise tax account, the local  
38 sales and use tax account, the medical aid account, the mobile home  
39 park relocation fund, the multimodal transportation account, the

1 municipal criminal justice assistance account, the municipal sales  
2 and use tax equalization account, the natural resources deposit  
3 account, the oyster reserve land account, the perpetual  
4 surveillance and maintenance account, the public employees'  
5 retirement system plan 1 account, the public employees' retirement  
6 system combined plan 2 and plan 3 account, the public facilities  
7 construction loan revolving account beginning July 1, 2004, the  
8 public health supplemental account, the public works assistance  
9 account, the Puyallup tribal settlement account, the real estate  
10 appraiser commission account, the regional transportation  
11 investment district account, the resource management cost account,  
12 the rural Washington loan fund, the site closure account, the small  
13 city pavement and sidewalk account, the special wildlife account,  
14 the state employees' insurance account, the state employees'  
15 insurance reserve account, the state investment board expense  
16 account, the state investment board commingled trust fund accounts,  
17 the supplemental pension account, the Tacoma Narrows toll bridge  
18 account, the teachers' retirement system plan 1 account, the  
19 teachers' retirement system combined plan 2 and plan 3 account, the  
20 tobacco prevention and control account, the tobacco settlement  
21 account, the transportation infrastructure account, the  
22 transportation partnership account, the tuition recovery trust  
23 fund, the University of Washington bond retirement fund, the  
24 University of Washington building account, the volunteer fire  
25 fighters' and reserve officers' relief and pension principal fund,  
26 the volunteer fire fighters' and reserve officers' administrative  
27 fund, the Washington bioenergy loan account, the Washington fruit  
28 express account, the Washington judicial retirement system account,  
29 the Washington law enforcement officers' and fire fighters' system  
30 plan 1 retirement account, the Washington law enforcement officers'  
31 and fire fighters' system plan 2 retirement account, the Washington  
32 public safety employees' plan 2 retirement account, the Washington  
33 school employees' retirement system combined plan 2 and 3 account,  
34 the Washington state health insurance pool account, the Washington  
35 state patrol retirement account, the Washington State University  
36 building account, the Washington State University bond retirement  
37 fund, the water pollution control revolving fund, and the Western  
38 Washington University capital projects account. Earnings derived  
39 from investing balances of the agricultural permanent fund, the

1 normal school permanent fund, the permanent common school fund, the  
2 scientific permanent fund, and the state university permanent fund  
3 shall be allocated to their respective beneficiary accounts. All  
4 earnings to be distributed under this subsection (4)(a) shall first  
5 be reduced by the allocation to the state treasurer's service fund  
6 pursuant to RCW 43.08.190.

7 (b) The following accounts and funds shall receive eighty  
8 percent of their proportionate share of earnings based upon each  
9 account's or fund's average daily balance for the period: The  
10 aeronautics account, the aircraft search and rescue account, the  
11 county arterial preservation account, the department of licensing  
12 services account, the essential rail assistance account, the ferry  
13 bond retirement fund, the grade crossing protective fund, the high  
14 capacity transportation account, the highway bond retirement fund,  
15 the highway safety account, the motor vehicle fund, the motorcycle  
16 safety education account, the pilotage account, the public  
17 transportation systems account, the Puget Sound capital  
18 construction account, the Puget Sound ferry operations account, the  
19 recreational vehicle account, the rural arterial trust account, the  
20 safety and education account, the special category C account, the  
21 state patrol highway account, the transportation 2003 account  
22 (nickel account), the transportation equipment fund, the  
23 transportation fund, the transportation improvement account, the  
24 transportation improvement board bond retirement account, and the  
25 urban arterial trust account.

26 (5) In conformance with Article II, section 37 of the state  
27 Constitution, no treasury accounts or funds shall be allocated  
28 earnings without the specific affirmative directive of this  
29 section.

30 NEW SECTION. **Sec. 9.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 10.** Sections 1 through 6 and 9 of this act  
35 expire June 30, 2016. Any moneys in the Washington bioenergy loan  
36 account on that date and any moneys received pursuant to loans made  
37 under this chapter must be deposited in the general fund.

1           NEW SECTION.   **Sec. 11.**   Sections 1 through 6, 9, 10, and 12 of  
2   this act constitute a new chapter in Title 43 RCW.

3           NEW SECTION.   **Sec. 12.**   This act takes effect July 1, 2006."

4           Correct the title.

**EFFECT:**   Strikes all substantive provisions of the bill and replaces them with the operative provisions of HB 2775, the Governor's biofuels proposal, with a change to HB 2775 that limits loan recipients to political subdivisions.

- CTED, rather than the Energy Freedom Board, will make allocation decisions.
- Agencies with expertise will provide consultation.
- Eligible projects are construction of facilities and equipment to convert farm products or wastes into electricity or gaseous or liquid fuels, including facilities to generate electricity or methane from anaerobic digestion of organic matter and facilities for extracting oil from oilseeds.
- Criteria for loan awards include contribution to viable bioenergy production, benefits to Washington agriculture, conservation of energy and reduction of fuel dependence, environmental benefits, and job creation.
- Interest rates on loans must be 1% below prime.   Loan repayment may be deferred up to 12 months.
- Public research institutions are eligible to receive grants.
- Loans are limited to 50% of total project funding.